

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

NARESA JAN CUNNINGHAM,

Plaintiff,

v.

Civil Action No. 5:12-cv-00100-FPS

UNITED STATES OF AMERICA,

Defendant.

STIPULATION EXTENDING DEADLINE TO FILE RULE 37 MOTION TO COMPEL

Come now the Plaintiff, Naresa Jan Cunningham, by and through her counsel, Richard R. Marsh and the law firm of McNeer, Highland McMunn & Varner, LC, and the Defendant, the United States of America (“United States”), through its counsel, Gerald A. Role, Alan G. McGonigal, and the United States Department of Justice, to stipulate to an extension of time for Cunningham to file her Rule 37 Motion to Compel in regards to “Plaintiff’s First Set of Requests for Admission, Interrogatories, and Requests for Production to Defendant.” The parties stipulate that the deadline for such motion to compel will be **May 10, 2013**, for the reasons that follow:

1. Cunningham served the Plaintiff’s First Set of Requests for Admission, Interrogatories, and Requests for Production to Defendant on the United States on February 28, 2013.
2. The United States served its answers and responses to the Plaintiff’s discovery requests on April 2, 2013.
3. Pursuant to Rules 33, 34, and 36 of the Federal Rules of Civil Procedure and Federal Rule of Civil Procedure 6(d), the United States’ answers and responses were timely filed.
4. On April 24, 2013, Cunningham’s counsel provided a letter by electronic mail to the United States’ counsel detailing asserted deficiencies in the United States’ answers and responses.

5. On April 29, 2013, respective counsel consulted by phone regarding the asserted deficiencies in the United States' discovery responses.

6. The parties agreed that the United States had not yet provided any documents responsive to the discovery requests, but that such documents were forthcoming.

7. The parties agreed that the production of the responsive documents may resolve the discovery dispute and would, at the very least, narrow the dispute.

8. The parties agree that pursuant to Local Rule of Civil Procedure 37.02(b), Cunningham's motion to compel is due on May 2, 2013.

9. The parties believe that it would be advantageous and consistent with the general principle that the Federal Rules of Civil Procedure prefers the parties to resolve discovery disputes among themselves to extend that deadline to May 10, 2013.

10. The parties agree to that extension on the grounds that production of the documents may resolve the discovery disputes.

11. Discovery is scheduled to be concluded on July 31, 2013. An extension of the deadline for a motion to compel will not effect that deadline or the trial date of November 13, 2013.

12. Therefore, pursuant to Rule 29 of the Federal Rules of Civil Procedure, the parties agree to extend the deadline for Cunningham to file her motion to compel related to the United States' answers and responses to Plaintiff's First Set of Requests for Admission, Interrogatories, and Requests for Production to Defendant. Such deadline is extended to **May 10, 2013**.

Dated May 1, 2013.

/s/ Richard R. Marsh
RICHARD R. MARSH (WV State Bar #10877)

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